

REMARKS

These amendments and remarks are in response to the Office Action dated June 26, 2009. This amendment is timely filed.

At the time of the Office Action, claims 1-14 were pending. Claims 1-5, 9-12 and 14 were withdrawn in a previously issued Restriction Requirement. In the Office Action, an objection was raised to claim 8. Claims 6-8 and 13 were rejected under 35 U.S.C. §102(b) and §103(a). The rejections are discussed in more detail below.

I. Objections to the Claims

In the Office Action, claim 8 was objected to for the informality listed in the Office Action. An appropriate correction has been made herein. Applicant respectfully requests withdrawal of the objection.

II. Rejections to the claims based upon Art

Claims 6-8 and 13 were rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 5,643,775 to Takahashi et al. (hereafter "*Takahashi*"). Claims 6-8 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Takahashi* in view of U.S. Patent No. 3,625,826 to Kobayashi ("*Kobayashi*").

Applicant respectfully traverses these rejections, and disagrees with the Examiner for the following reasons.

*Takahashi* is directed to the preparation of trehalose phosphorylases by using mutants of trehalose phosphorylase-producing microorganisms which are cultured in a culture medium. However *Takahashi*, when discussing the culture medium, merely discloses that "[a]ny synthetic or natural medium composed of carbon and nitrogen sources, inorganic salts, vitamins and the other nutrients can be used for the cultivation of microorganisms of the present invention." Thus, there is no disclosure in *Takahashi* that the components of the culture medium, nor the relative amounts of the components is of any importance. *Takahashi* discloses a rather long list of

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possible carbon and nitrogen (organic and inorganic) components but it does not provide any disclosure or suggestion to use the specific combination of components (molasses, sucrose, corn steep liquor and yeast extract) constituting the presently claimed culture medium, in the specific ranges that are claimed in the present application. *Takahashi* only discloses the exact composition of the culture medium in the examples but, in the examples, the combination of the components constituting the culture medium is very different form that of the claimed culture medium.

Therefore, *Takahashi* does not anticipate the subject-matter of claims 6-8 and 13. Neither the subject-matter of those claims is obvious over *Takahashi* as the skilled person needs to carry out undue experimentation to select the specific components and amounts used in the claimed culture medium.

With regard to *Kobayashi*, it is noted this document is directed to the production of spiculisporic acid by cultivating a specific strain of *Penicillium spiculisporum*. The culture medium used for cultivating this strain may include carbohydrate materials such as molasses and sucrose (see col. 3 lines 19-25). However, according to *Kobayashi* (see col. 3 lines 26-30), the maximum concentration of carbohydrate materials in said culture medium is 30% whereas, in the claimed culture medium, such concentration is much higher (for example, the content of just molasses is within the range of 60-65%).

Thus, even combining the teachings of *Takahashi* with *Kobayashi*, the skilled person would not arrive at the claimed culture medium which is therefore not obvious.

For the above reasons, the subject matter of claims 6 and 13 are patentable over the cited prior art. Similar arguments apply to dependent claims 7 and 8, which are believed to be allowable because of their dependence upon an allowable base claim, and because of the further features recited. All claims are thus believed to relate to patentable subject matter, and to be in condition for allowance.

### **III. Conclusion**

Applicants have made every effort to present claims which distinguish over the prior art, and it is thus believed that all claims are in condition for allowance. Nevertheless, Applicants invite the Examiner to call the undersigned if it is believed that a telephonic interview would

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expedite the prosecution of the application to an allowance. In view of the foregoing remarks,  
Applicants respectfully request reconsideration and prompt allowance of the pending claims.

Respectfully submitted,



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